

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4176

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005.5 new
55 ILCS 5/3-9005.10 new

Amends the Counties Code. Provides that, in a criminal investigation in counties in excess of 3,000,000 involving a forcible felony where the State's Attorney or an Assistant State's Attorney rejects the filing of a felony charge or charges or the case is designated by the State's Attorney or Assistant State's Attorney as a continuing investigation: (1) a law enforcement agency in the jurisdiction where the alleged crime occurred may override the State's Attorney or Assistant State's Attorney's rejection of the felony charge or charges or the case is designated by the State's Attorney or Assistant State's Attorney as a continuing investigation if the evidence supporting the charge is clear and convincing and the override is filed with the clerk of the circuit court and the State's Attorney; and (2) the State's Attorney or Assistant State's Attorney may rescind the override within 7 days after the override by petitioning the Chief Judge of the Criminal Division of the circuit court. Provides for petition requirements. Provides that, if the court determines that law enforcement agency's decision to override was based on clear and convincing evidence, the State's Attorney must proceed with a preliminary examination or seek an indictment by grand jury within 30 days from the date he or she was taken into custody or, if he or she is not in custody, 60 days from the date he or she was arrested. Provides that the decision of the court on the law enforcement agency's override is not appealable. Requires all State's Attorney Offices to collect and maintain data in a public database on all felony cases called in for review by law enforcement and specifies how the data shall be collected and disclosed. Requires notification of a victim or victim's family of rejection of a felony case.

LRB102 20998 AWJ 29911 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Sections
5 3-9005.5 and 3-9005.10 as follows:

6 (55 ILCS 5/3-9005.5 new)

7 Sec. 3-9005.5. Forcible felony override.

8 (a) As used in this Section:

9 "Forcible felony" has the meaning given to that term in
10 Section 2-8 of the Criminal Code of 2012.

11 "Law enforcement agency" means a chief of police, police
12 superintendent, sheriff, or public safety director.

13 (b) In a criminal investigation involving a forcible
14 felony where the State's Attorney or an Assistant State's
15 Attorney rejects the filing of a felony charge or charges or
16 the case is designated by the State's Attorney or Assistant
17 State's Attorney as a continuing investigation:

18 (1) A law enforcement agency in the jurisdiction where
19 the alleged crime occurred may override the State's
20 Attorney or Assistant State's Attorney's rejection of the
21 felony charge or charges or the case is designated by the
22 State's Attorney or Assistant State's Attorney as a
23 continuing investigation if the evidence supporting the

1 charge is clear and convincing. The override shall be
2 filed with the clerk of the circuit court and the State's
3 Attorney.

4 (2) The State's Attorney or Assistant State's Attorney
5 may rescind the override within 7 days after the override
6 by petitioning the chief judge of the criminal division of
7 the circuit court. The petition must contain:

8 (A) A written explanation why the law enforcement
9 agency's override should be rescinded.

10 (B) Confirmation by the State's Attorney or
11 Assistant State's Attorney in writing disclosing that
12 the rescission of the law enforcement agency's
13 override was explained to the victim or victim's
14 family.

15 Both the law enforcement agency, or the law
16 enforcement agency's designee, and the State's Attorney or
17 Assistant State's Attorney shall proceed by way of
18 proffer. The law enforcement agency's override shall be
19 rescinded if the court determines that the law enforcement
20 agency's override was not based on clear and convincing
21 evidence.

22 If the court determines that law enforcement agency's
23 decision to override was based on clear and convincing
24 evidence, the State's Attorney must proceed with a
25 preliminary examination, as provided for in Section 109-3
26 of the Code of Criminal Procedure of 1963, or seek an

1 indictment by grand jury, as provided for in Section 111-2
2 of the Code of Criminal Procedure of 1963, within 30 days
3 from the date he or she was taken into custody or, if he or
4 she is not in custody, within 60 days from the date he or
5 she was arrested.

6 The decision of the court on the law enforcement
7 override is not appealable.

8 The clerk of the court shall enter a record of the
9 felony override at the end of the seventh day after filing
10 if the State's Attorney's Office does not file a petition
11 to rescind.

12 Any document or other evidence which becomes part of the
13 official record from a rescission hearing shall not be
14 admissible in any civil, criminal, or administrative case.

15 (c) This Section only applies to counties in excess of
16 3,000,000.

17 (55 ILCS 5/3-9005.10 new)

18 Sec. 3-9005.10. Felony case database; notification of
19 victim or victim's family of rejection.

20 (a) The State's Attorney's Office shall collect and
21 maintain data in a public database on all felony cases called
22 in for review by law enforcement. Each case reviewed shall be
23 assigned a unique number and the State's Attorney's Office
24 shall capture the following data for each case:

25 (1) Date and time law enforcement contacted State's

1 Attorney's Office for a felony review.

2 (2) Date and time the State's Attorney or Assistant
3 State's Attorney completed the felony review.

4 (3) The data collection of the felony review shall
5 only be for the following categories:

6 (A) Rejected.

7 (B) Continuing Investigation.

8 If the State's Attorney or the Assistant State's Attorney
9 determines that the case is a continuing investigation, the
10 State's Attorney's Office shall within 30 days reject or
11 approve the felony charges.

12 Once the charges are rejected or approved, that
13 information shall be made available on the public database
14 within 7 days.

15 (b) If a charge is rejected, the State's Attorney or
16 Assistant State's Attorney shall notify the alleged victim or
17 victims or victim's family or victims' families within 24
18 hours of the rejection as well as provide a written
19 explanation for the rejection.